

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

THOMAS A. BRUBAKER, BY HIS GUARDIAN,  
KATHY M. BRUBAKER,

Plaintiff,

Case No. 07-14488

vs.

DISTRICT JUDGE GEORGE CARAM STEEH  
MAGISTRATE JUDGE STEVEN D. PEPE

ENCOMPASS PROPERTY AND CASUALTY  
COMPANY,

Defendant.

=====

**MEMORANDUM OPINION ON IN CAMERA INSPECTION**

The redactions from Terri Martin's file history have been reviewed for the period of April 20, 2006. through October 11, 2007, and while certain entries might be categorized as work product protected instead of attorney client privileged in defendant's Amended Log of Privileged Documents, all redactions are determined to be confidential and protected from disclosure :

Entry of October 11, 2007, stating "A letter was drafted by defense counsel, dated September 28, 2007 and mailed to Kathy Brubaker advising her of this decision." Because defense counsel drafted a letter with the intention of sending it to Kathy Brubaker, there was no intent to keep this information confidential, and thus it is not protected. See cases cited in Epstein, ATTORNEY CLIENT PRIVILEGE AND THE WORK PRODUCT DOCTRINE, (ABA Section on Litigation, 5<sup>th</sup> Edition 2007) at 236. "To be privileged, a communication must both be made with the requisite confidentiality and must be intended to be kept confidential."

The parties to this action may object to and seek review of this Order, but are required to file any objections within ten (10) days of service of a copy hereof as provided for in 28 U.S.C. § 636(b)(1), Fed. R. Civ. P. 72(b) and LR 72.1(d). Any objections are required to specify the part of the Order to which the party objects and state the basis of the objection. Pursuant to E.D. Mich. LR 72.1(d)(2), a copy of any objections is to be served upon the Magistrate Judge.

**SO ORDERED.**

Date: August 21, 2008  
Ann Arbor, Michigan

s/Steven D. Pepe  
United States Magistrate Judge

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing ***Order*** was served on the attorneys and/or parties of record by electronic means or U.S. Mail on August 21, 2008.

s/ A. Greer  
Case Manager to Magistrate  
Judge Steven D. Pepe  
(734) 741-2298